THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.12121 of 2007

18.7.2007

Between:

B.Laxmi, W/o.B.Subramanyeswara Rao

… Petitioner

AND

The Joint Collector-II, Ranga Reddy District
And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.12121 of 2007

ORDER:

The petitioner purchased plot Nos.27/Part (150 Sq.yards) and 28 (200 Sq.yards) in survey Nos.317/1 and 318 situated at Chandanagar Village of Serilingampaly Mandal in Ranga Reddy District, from Smt.Krishnaveni, B.Venkataramana Reddy and N.Ramachandraiah, under a registered sale deed dated 05.6.2002. When the fourth respondent tried to interfere with her possession, she filed O.S.No.1322 of 2007 on the file of the Court of the Principal Junior Civil Judge, Ranga Reddy District. She also filed I.A.No.1338 of 2007 for ad interim injunction, which was granted on 26.4.2007. On a complaint given by the fourth respondent, it is alleged, P.S.Chandanagar called her and conducted enquiry. At that time, petitioner and fourth respondent exchanged documents of title.

On verifying the documents, petitioner learnt that respondents 4 and 5 are claiming to be sons of late Anantha Ram, who was the original owner of the entire extent of Acs.25.03 gts in survey Nos.315/1, 316/1,317/1 and 318/1 of Chandanagar village to whom the title was traced. It was also revealed that respondents 4 and 5 obtained succession certificate in O.P. No.5 of 1998 on the file of the Court of the Principal Junior Civil Judge (West & South), Ranga Reddy District, for withdrawing amounts from Vijaya Bank, Chandanagar Branch. Based on such certificate, they also filed an application before the third respondent who ordered to amend the record of rights showing the name of late Anantha Ram as the owner subject to the provisions of Urban Land (Ceiling & Regulation) Act, 1976 (ULC Act). Aggrieved by the same, M/s.Samir More, Sunil More and others filed appeals before the second respondent. By order dated 27.8.2003, the second respondent held that amendment of record of rights

incorporating the names of M/s.Samir More, Sunil More and Tara More was erroneous. These persons then preferred revision petition before the first respondent, who by order dated 17.12.2005 rejected the revision on the ground that the suit being O.S.No.932 of 2002 filed by the father of respondents 4 and 5 was pending and that the third respondent should take necessary action depending on the result of the suit.

The petitioner having come to know about the events noticed herein above, visualized that the orders passed by first respondent has adverse effect on her possessory right in the suit and therefore she challenged the order by filing the instant writ petition.

Learned Counsel for the petitioner strenuously contends that the impugned order passed by the first respondent is in contravention of Section 5(3) of Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (RoR Act, for brevity). He contends that late Anantha Ram died issueless in 1973 leaving behind his wife, Sattemma. After her death, the land devolved on his brother, Narendra More and four others including the father of respondents 4 and 5, who is nephew of Anantha Ram. When Narendra More filed application for mutation, Sohanlal filed petition expressing no objection and accordingly mutation was granted to Narendra More by proceedings dated 30.12.1993. After death of Narendra More, his sons Samir More, Sunil More and his wife Tara More survived him, who entered into a settlement and sold the property. Therefore learned Counsel for the petitioner submits that after long lapse of time, third respondent could not have again entertained another application for mutation of property without conducting enquiry. Lastly he submits that respondents 4 and 5 obtained succession certificate only for the purpose of withdrawing the amounts from Vijaya Bank and the same could not have been pressed into service for changing the record of rights.

Opposing the writ petition, learned Assistant Government Pleader for Revenue (General-A) submits that the first respondent declined to exercise revisional jurisdiction only on the ground that a civil suit is pending and when the first respondent did not pass any order on merits, petitioner cannot have any grievance. He secondly submits that the order was passed on 17.12.2005 and after lapse of about two years, interference is not called for. Lastly, he submits that the impugned order does not in any manner affect the rights of the petitioner as she is allegedly a bona fide purchaser for valid consideration.

The impugned order was passed on 17.12.2005 and the petitioner has now approached this Court by filing the writ petition on 07.6.2007. Justification for such delay as alleged in the affidavit

accompanying the writ petition is that when the fourth respondent lodged a complaint with P.S.Chandanagar, petitioner was called to the police station and was given the necessary documents. After reading such documents, petitioner allegedly came to know about the proceedings. In this context, petitioner admits that she filed O.S.No.1322 of 2007 on the file of the Court of Principal Junior Civil Judge, Ranga Reddy District, for perpetual injunction and obtained ad interim injunction in I.A.No.1338 of 2007. Apart from this as noticed by the first respondent, father of respondents 4 and 5 filed O.S.No.932 of 2002 against several persons who purchased house plots from Sunil More and others, and obtained ad interim injunction by virtue of the orders dated 07.2.2005 in CMA No.123 of 2004 passed by the Court of the II Additional District Judge, Ranga Reddy District. Therefore, the injunction obtained by the father of respondents 4 and 5 was certainly earlier in point of time (petitioner obtained ad interim injunction on 26.4.2007). Keeping this in view the first respondent held that the revision petition is not maintainable. While doing so, reliance was placed on the decision of this Court in **Velagapudi Satyanarayana v District Collector, Nalgonda**[1].

In **Velagapudi Satyanarayana** (supra), after making reference to Section 8(2) of A.P. Record of Rights in Land Act, 1971, this Court made the following observations.

> The respondents have filed the revision petition under Section 166-B of A.P. (Telangana Area) Land Revenue Act, 1317 Fasli to review the order of Tahsildar mutating the name of the petitioner in the revenue records in the Jamabandi 1975-76 after a lapse of 15 years, which they are not entitled according to law and they have rightly approached the competent civil Court under Section 8(2) of the A.P. Record of Rights in Land Act, 1971, which is pending before the Court, for the same relief which was prayed in the revision petition before the District Collector under Section 166-B. The petitioner has filed a suit and obtained interim injunction restraining the respondent not to dispossess him from the suit land. When the petitioner has obtained interim injunction, against the respondents, they should not have approached the District Collector to review the orders passed by the Tahsildar to remove the name of the petitioner from the Revenue Records and include their names. The issue involved in the writ petition is squarely covered by Section 8(2) of the Act and the respondents have rightly approached the civil Court. Therefore, the District Collector has no power to entertain the revision under Section 166-B of Revenue Act, after a lapse of 15 years to delete the name of the petitioners from the revenue records, which was mutated in Jamabandi in the year 1975-76.

As noticed by this Court in the above case, father of respondents 4 and 5 as well as the petitioner approached the civil court claiming possession. The first respondent was correct in directing the parties to get the issue resolved in the civil Court. The impugned order does not suffer from any infirmity.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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(**V.V.S.RAO,J**)

July , 2007.

NOTE:

Issue order copy in
One week.
(By order)
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[1] 2000(6) ALD 153